

**SUBJECT:** Assessment liens in the boll weevil eradication program

**COMMITTEE:** Agriculture and Livestock — favorable, without amendment

**VOTE:** 6 ayes — Swinford, Christian, Hardcastle, Brown, Hupp, Kolkhorst  
0 nays  
3 absent — McReynolds, Miller, Green

**SENATE VOTE:** On final passage, March 8 — 30-0, on Local and Uncontested Calendar

**WITNESSES:** None

**BACKGROUND:** Agriculture Code, sec. 74.115 governs the payment of assessments against cotton growers to help fund the boll weevil eradication program. A grower who fails to pay an assessment when due may be subject to a penalty set by the agriculture commissioner. Remedies for collections of assessments and penalties include an assessment lien in favor of the Boll Weevil Eradication Foundation, which is perfected 60 days after the date the foundation mails notice of the assessment. A buyer of cotton takes free of the assessment lien if the buyer receives a compliance certificate issued by the foundation that certifies that the assessment has been paid or if the buyer pays for the cotton by a check that names TDA as a joint payee.

Under sec. 74.1041, the commissioner may designate interim advisory groups for boll weevil eradication zones. These groups gather input from cotton growers concerning their interest in and concerns about the eradication program. Each group must make recommendations to the commissioner regarding geographic boundaries for eradication zones, the amount of local interest in operating an eradication program, the basis and amount of necessary assessments for the program, and the need to restructure debt from previous eradication activities.

**DIGEST:** SB 717 would provide that, in addition to the conditions in current law, a buyer of cotton would take free of an assessment lien if the buyer did not receive notice of the lien as required by the federal Food Security Act of

1985 or if the buyer bought the cotton from someone other than the producer. If TDA had cause to believe that a violation had occurred, the department could investigate, audit, and inspect the records of the alleged violator.

An assessment lien would not be an agricultural lien for purposes of the Uniform Commercial Code (UCC) and would not be subject to UCC rules. An assessment lien would be subject to the Food Security Act and would be treated under that act the same as a security interest created by the seller.

SB 717 would authorize the agriculture commissioner to appoint an advisory committee for an existing boll weevil eradication zone or an area to be considered for designation as such a zone. The committee could make recommendations to the commissioner and the foundation regarding the ongoing implementation of an eradication program approved by growers in a given zone. Each committee would have to include enough growers to ensure adequate representation across the zone. The committees, like the foundation, would be immune from lawsuits and liability, except as provided by the Tort Claims Act (Civil Practice and Remedies Code, chapter 101), but they would be subject to the open meetings and open records laws.

To the extent allowed by law, the foundation could cooperate with an agency of another state contiguous to an affected area of Texas to carry out programs to destroy and eliminate the boll weevil and pink bollworm.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2001.